

## CONTRACT FOR SERVICES

### **THIS CONTRACT IS SUBJECT TO ARBITRATION PURSUANT TO THE MONTANA UNIFORM ARBITRATION ACT**

#### **1. PARTIES**

The Montana Department of Corrections (DEPARTMENT) and **Prickly Pear Cooperative (CONTRACTOR or PPC)** enter into this Contract (CCD-02-032-5-RIV) for services. The parties name, address, and telephone number are as follows:

Montana Department of Corrections  
Juvenile Corrections Division  
1539 11<sup>th</sup> Avenue  
P.O. Box 201301  
Helena, MT 59620-1301  
(406) 444-3930

*Prickly Pear Cooperative  
PO Box 1280  
Main Street School  
East Helena, MT 59635  
(406) 227-7322*

**DEPARTMENT AND CONTRACTOR, AS PARTIES TO THIS CONTRACT AND FOR THE CONSIDERATION SET FORTH BELOW, AGREE AS FOLLOWS:**

#### **2. DUTIES/RESPONSIBILITIES OF THE CONTRACTOR**

CONTRACTOR agrees to provide the following services at the Riverside Youth Correctional Facility in Boulder, Montana:

A. As requested by DEPARTMENT, CONTRACTOR will provide up to three hours per week of on-site School Psychology services and up to four hours per week of on-site Special Education Teacher services using properly certified staff.

1. School Psychology services shall consist of necessary and appropriate testing and assessment of the educational, behavioral, and intellectual needs of youth in accordance with the requirements under IDEA, including a record review; the interpretation and summarization of data relevant to the educational performance of the student; participation in CST and IEP meetings; the counseling of youth with disabilities, as required by the IEP; and consultation with school personnel, as necessary. The school shall not serve in an administrative capacity.
2. Special Education Teacher services shall consist of instruction to the youth with disabilities in accordance with the requirements of IDEA: the assessment of academic achievement and the interpretation and summarization of data relevant to education performance of the student; the record review and participation of CST and IEP meetings; and consultation with school personnel, as necessary. The resource teacher shall not serve in administrative capacity.

Reporting requirements shall meet the standards set forth in IDEA. The director of PPC shall review special education records at least once a year.

### **3. COMPENSATION/BILLING**

DEPARTMENT shall compensate CONTRACTOR for successful delivery of the services provided pursuant to Section 2 in the following manner:

- A. DEPARTMENT will pay CONTRACTOR \$41.90 per hour for School Psychology services and \$34.54 per hour for Special Education Teacher services. In addition, DEPARTMENT will pay CONTRACTOR \$34.54 per visit to Riverside for travel time incurred by the Special Education Teacher, or school psychologist. All services shall be provided and scheduled "as requested" by DEPARTMENT.
- B. DEPARTMENT shall pay CONTRACTOR an amount not to exceed six thousand and 00/100 Dollars (\$6,000) for the services described in Section 2 above.
- C. DEPARTMENT agrees to pay CONTRACTOR within 30 business days following receipt of a correct invoice.
- D. DEPARTMENT may withhold payments to CONTRACTOR if CONTRACTOR has not performed in accordance with the terms of this Contract.
- E. The Contract number must be referenced on all invoices and correspondence pertaining to this Contract.

### **4. AGENCY ASSISTANCE**

To the extent possible, CONTRACTOR shall use CONTRACTOR'S own facilities and equipment in providing the services set forth in Section 2. However, the parties recognize that services provided to DEPARTMENT may occur within the confines of a secure correctional facility necessitating the use of DEPARTMENT facilities and equipment including, but not limited to, access to inmate records, work space within a correctional facility, and phone service (e.g., such as cellular or digital phones are not allowed in secure areas of facilities as per Department policy).

### **5. TIME OF PERFORMANCE**

This Contract shall take effect on {changed to July 1, 2001 after routing} and shall terminate on June 30, 2002, unless terminated earlier in accordance with the terms of this Contract. This Contract may, upon mutual agreement and according to the terms of the existing Contract, be renewed at one (1) year intervals for a period not to exceed a total of five (5) additional years.

### **6. LIAISON AND NOTICE**

- A. Ron Fuller (225-4505) or successor serves as DEPARTMENT'S liaison.
- B. Vaughn Kauffman (227-7322) or successor serves as CONTRACTOR'S liaison.
- C. All notices and invoices required in this Contract shall be in writing, properly addressed to the liaison in (A) and (B) above, mailed first-class, postage prepaid. All notices sent via U.S. Postal Service are deemed effective on the date of postmark. Notices and invoices mailed through another carrier (e.g., UPS or FedEx) are effective upon receipt.

**7. OWNERSHIP AND PUBLICATION OF MATERIALS**

All materials CONTRACTOR develops or utilizes (i.e., reports, spreadsheets, etc.) in performing the services set forth in Section 2 above shall be the joint property of CONTRACTOR and DEPARTMENT.

**8. CONTRACTED PARTY'S EMPLOYMENT STATUS**

A. CONTRACTOR is an independent contractor and neither CONTRACTOR nor any of its employees or agents, are employees of the DEPARTMENT. **THE CONTRACTOR SHALL NOT BE COMPENSATED FOR WORK PERFORMED PRIOR TO PROVIDING THE DEPARTMENT WITH A CERTIFICATE OF WORKERS' COMPENSATION INSURANCE OR A CERTIFICATE OF EXEMPTION UNDER 39-71-401, MCA.**

B. CONTRACTOR is not covered by provisions of the Montana Tort Claims Act.

**9. INSURANCE**

A. **PROFESSIONAL LIABILITY:** CONTRACTOR shall purchase and maintain professional liability insurance during the term of this Contract. Coverage shall be at a minimum of \$500,000 combined single limit per occurrence with a \$1,000,000 annual aggregate single limit per occurrence.

B. **GENERAL LIABILITY:** CONTRACTOR shall be required to maintain general liability occurrence coverage for bodily injury, personal injury, and property damage at a minimum of \$300,000 combined single limit per occurrence with a \$600,000 annual aggregate single limit per occurrence.

C. CONTRACTOR shall name the State of Montana, its officers, officials, employees and volunteers, as an additional insured and provide appropriate copies of endorsements and certificates of insurance prior to the commencement of services under this Contract. Insurance coverage shall be primary insurance as respects the state, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the state, its officers, officials, employees, or volunteers shall be excess of CONTRACTOR'S insurance and shall not contribute with it. The certificates and endorsements for each insurance policy are to be signed by a person authorized by the insurer to bind coverage on its behalf.

D. CONTRACTOR'S insurer must provide DEPARTMENT with 30 days written notice prior to the policy expiration date of insurance's required under this Contract.

**10. HOLD HARMLESS AND INDEMNIFICATION**

A. CONTRACTOR agrees that he is financially responsible (liable) for any audit exceptions or other financial loss to DEPARTMENT due to the negligence, intentional acts, or failure for any reason to comply with terms of this Contract.

- B. CONTRACTOR agrees to protect, defend, and save DEPARTMENT, its elected and appointed officials, agents and employees, while acting with the scope of their duties as such, harmless from and against all claims, and causes of action of any kind of character, including the cost of defense thereof, arising in favor of CONTRACTOR'S employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of CONTRACTOR. Herein nothing shall be construed as an agreement by CONTRACTOR to release, indemnify and hold harmless DEPARTMENT, its officials, agents, or employees from liability for damage or injury to persons or property caused by the negligence, carelessness, or intentional acts of DEPARTMENT, its officials, agents, or employees, unless said officials, agents, or employees are acting under the direction or control of CONTRACTOR.

## **11. ACCESS AND RETENTION OF RECORDS**

- A. CONTRACTOR is required to maintain reasonable records of performance of duties pursuant to this Contract.
- B. CONTRACTOR agrees to provide DEPARTMENT, the Legislative Auditor, or their authorized agent with access to the CONTRACTOR'S records concerning this Contract.
- C. CONTRACTOR agrees to create and retain all records supporting the services rendered for a period of three years after completion of this Contract or the conclusion of any claim, litigation, or exception relating to this Contract taken by the State of Montana or a third party.

## **12. PUBLIC INFORMATION**

CONTRACTOR recognizes that this Contract may be subject to public inspection pursuant to Article 2, § 9 of the Montana Constitution. DEPARTMENT has a limited ability to assert a privacy interest in the subject matter of the Contract particularly with respect to information which is in the nature of a "trade secret" as the phrase is defined in federal law. In any event, CONTRACTOR agrees to hold DEPARTMENT harmless from any injury caused, in whole or in part, by the review of this agreement by an entity authorized to do so pursuant to Article 2, § 9 of the Montana Constitution.

## **13. ASSIGNMENT, TRANSFER AND SUBCONTRACTING**

CONTRACTOR shall not assign, sell, transfer, subcontract or sublet rights, or delegate duties under this Contract, in whole or in part, without the prior written approval of DEPARTMENT. No such written approval shall relieve CONTRACTOR of any obligation of this Contract and any transferee or subcontractor shall be considered the agent of CONTRACTOR. CONTRACTOR shall remain liable as between the original parties to the Contract as if no such assignment had occurred.

## **14. AMENDMENTS**

All amendments to this Contract shall be in writing and signed by the parties.

**15. COMPLIANCE WITH LAWS**

CONTRACTOR must comply with all applicable federal and state law including, but not limited to the prevailing wage laws, the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, the Section 504 of the Rehabilitation Act of 1973.

**16. TERMINATION AND DEFAULT**

- A. DEPARTMENT may, by written notice to the CONTRACTOR, terminate this Contract in whole or in part at any time the CONTRACTOR fails to perform as required in this Contract.
- B. Either party may terminate this Contract without cause by providing written notice to the other as described in this paragraph. The party desiring to terminate the Contract shall provide written notice to the other, which notice will establish a termination date not less than 30 days from the date of such notice. The termination of this Contract shall not limit any party's pursuit of remedies provided in this Contract or otherwise available under the laws of the State of Montana.
- C. DEPARTMENT, at its sole discretion, may terminate this CONTRACT if available funding is reduced.
- D. Failure on the part of either party to perform the provisions of this Contract constitutes default. Default may result in pursuit of a remedy for breach of Contract including, but not limited to, monetary damages or specific performance.

**17. CHOICE OF LAW AND VENUE**

This Contract is governed by the laws of Montana. The parties agree that any mediation, arbitration or litigation concerning this Contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana.

**18. FREEDOM FROM DISCRIMINATION**

All parties of this Contract agree that all hiring must be done on the basis of merit and qualifications. There may be no discrimination on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the person or persons performing the Contract.

**19. LICENSURE**

CONTRACTOR agrees to provide copies of current licenses and certifications that register the CONTRACTOR and any associates covered under this Contract.

**20. ARBITRATION**

Any Claim arising out of, or related to, this Contract shall be settled by binding arbitration in accordance with the commercial arbitration rules of the American Arbitration Association. Judgment on the award rendered by the Arbitrator may be entered in any court having jurisdiction thereof.

**21. INTEGRATION**

This Contract contains the entire agreement between the parties and no statement, promises, or inducements made by either party or agents thereof, which are not contained in the written Contract, shall be binding or valid. This Contract shall not be enlarged, modified, or altered except upon written agreement signed by all parties to the agreement.

**22. SEVERABILITY**

If any single part, or parts, of this Contract are determined void, the remaining parts remain valid and operative.

**23. COMPLETED CONTRACT**

The DEPARTMENT cannot disburse any payments under this Contract until a fully executed original Contract is returned to the Department of Corrections, Legal Services Bureau, P.O. Box 201301, 1539 11<sup>th</sup> Avenue, Helena, Montana 59620-1301.

**SIGNATURE**

**DEPARTMENT**

**CONTRACTOR**

\_\_\_\_\_  
Tim Ferriter, Superintendent  
Riverside Youth Correctional Facility

\_\_\_\_\_  
Vaughn Kauffman, Director  
Prickly Pear Cooperative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Approved for Legal Content by:

\_\_\_\_\_  
Legal Counsel  
Department of Corrections

\_\_\_\_\_  
Date

**CONTRACT AMENDMENT**  
**CONTRACT # CCD-02-032-5-RIV**

THIS CONTRACT AMENDMENT (**Amendment #1**) is made and entered into by and between the State of Montana, Department of Corrections (DEPARTMENT) 1539 11th Ave., Helena, Montana 59620-1301 and **Prickly Pear Cooperative (CONTRACTOR)** PO Box 1280, East Helena, MT 59635, and is effective upon receipt of all signatures.

WHEREAS, the parties have entered a Contract with an original effective date of July 1, 2001 and Section 21 provides that the parties may modify their agreement in writing; and

WHEREAS, Section 5 provides that the Contract expires on June 30, 2002 and further provides that the parties may extend the expiration date of the Contract.

NOW THEREFORE, the parties agree as follows:

**Sections 3(A) and 5 are amended to read (new language underlined, old language interlined):**

**3. COMPENSATION/BILLING**

DEPARTMENT shall compensate CONTRACTOR for successful delivery of the services provided pursuant to Section 2 in the following manner:

A. DEPARTMENT will pay CONTRACTOR ~~\$41.90~~ \$44.00 per hour for School Psychology services and ~~\$34.54~~ \$36.27 per hour for Special Education Teacher services. In addition, DEPARTMENT will pay CONTRACTOR ~~\$34.54~~ \$36.27 per visit to Riverside for travel time incurred by the Special Education Teacher, or school psychologist. All services shall be provided and scheduled "as requested" by DEPARTMENT.

**5. TIME OF PERFORMANCE**

This Contract shall take effect on July 1, 2001 and shall terminate on June 30, ~~2002~~ 2003, unless terminated earlier in accordance with the terms of this Contract. This Contract may, upon mutual agreement and according to the terms of the existing Contract, be renewed at one (1) year intervals for a period not to exceed a total of ~~five (5)~~ four (4) additional years.

This constitutes the Amendment to the Contract. All other provisions contained in the original Contract, as amended, shall remain unchanged.

**SIGNATURES**

**DEPARTMENT**

**CONTRACTOR**

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Cindy McKenzie, Superintendent  
Riverside Youth Correctional Facility

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Vaughn Kauffman, Director  
Prickly Pear Cooperative

Reviewed for Legal Content by:

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Legal Counsel  
Department of Corrections

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Date



**CONTRACT AMENDMENT**  
**CONTRACT #CCD-02-032-5-RIV**

THIS CONTRACT AMENDMENT (**Amendment #2**) is made and entered into by and between the State of Montana, Department of Corrections (DEPARTMENT) 1539 11th Ave., Helena, Montana 59620-1301 and **Prickly Pear Cooperative** (CONTRACTOR) PO Box 1280, East Helena, Montana 59635, and is effective upon receipt of all signatures.

**WHEREAS, the parties have entered a Contract with an original effective date of July 1, 2001 and Section 21 provides that the parties may modify their agreement in writing; and**

WHEREAS, the Contract expires on June 30, 2003 and Section 5 provides that the parties may extend the expiration date of the Contract.

NOW THEREFORE, the parties agree as follows:

**Sections 3(A) and 5 are amended to read (new language underlined, old language interlined):**

**3. COMPENSATION/BILLING**

DEPARTMENT shall compensate CONTRACTOR for successful delivery of the services provided pursuant to Section 2 in the following manner:

F. DEPARTMENT will pay CONTRACTOR ~~\$44.00~~ \$45.76 per hour for School Psychology services and ~~\$36.27~~ \$37.73 per hour for Special Education Teacher services. In addition, DEPARTMENT will pay CONTRACTOR ~~\$36.27~~ \$37.73 per visit to Riverside for travel time incurred by the Special Education Teacher, or school psychologist. All services shall be provided and scheduled "as requested" by DEPARTMENT.

**5. TIME OF PERFORMANCE**

This Contract shall take effect on July 1, 2001 and shall terminate on June 30, ~~2003~~ 2004, unless terminated earlier in accordance with the terms of this Contract. This Contract may, upon mutual agreement and according to the terms of the existing Contract, be renewed at one (1) year intervals for a period not to exceed a total of ~~four (4)~~ three (3) additional years.

This constitutes the Amendment to the Contract. All other provisions contained in the original Contract, as amended, shall remain unchanged.

**SIGNATURES**

**DEPARTMENT**

\_\_\_\_\_  
Steve Gibson, Administrator  
Juvenile Corrections Division

\_\_\_\_\_  
Date

**CONTRACTOR**

\_\_\_\_\_  
Vaughn Kauffman, Director  
Prickly Pear Cooperative

\_\_\_\_\_  
Date

Reviewed for Legal Content by:

\_\_\_\_\_  
Legal Counsel  
Department of Corrections

\_\_\_\_\_  
Date

**CONTRACT AMENDMENT**  
**CONTRACT #CCD-02-032-5-RIV**

THIS CONTRACT AMENDMENT (**Amendment #3**) is made and entered into by and between the State of Montana, Department of Corrections (DEPARTMENT) 1539 11th Ave., Helena, Montana 59620-1301 and **Prickly Pear Cooperative** (CONTRACTOR) PO Box 1280, East Helena, Montana 59635, and is effective upon receipt of all signatures.

**WHEREAS, the parties have entered a Contract with an original effective date of July 1, 2001 and Section 21 provides that the parties may modify their agreement in writing; and**

WHEREAS, the Contract expired on June 30, 2004 and Section 5 provides that the parties may extend the expiration date of the Contract.

NOW THEREFORE, the parties agree to amend the contract, as follows (**new language underlined, old language interlined**):

**3. COMPENSATION/BILLING**

DEPARTMENT shall compensate CONTRACTOR for successful delivery of the services provided pursuant to Section 2 in the following manner:

G. DEPARTMENT will pay CONTRACTOR \$45.76 per hour for School Psychology services and ~~\$37.73~~ \$39.61 per hour for Special Education Teacher services. In addition, DEPARTMENT will pay CONTRACTOR ~~\$37.73~~ \$39.61 per visit to Riverside for travel time incurred by the Special Education Teacher, or school psychologist. All services shall be provided and scheduled "as requested" by DEPARTMENT.

**5. TIME OF PERFORMANCE**

This Contract shall take effect on July 1, 2001 and shall terminate on June 30, ~~2004~~ 2005, unless terminated earlier in accordance with the terms of this Contract. This Contract may, upon mutual agreement and according to the terms of the existing Contract, be renewed at one (1) year intervals for a period not to exceed a total of three (3) ~~two~~ (2) additional years.

This constitutes the Amendment to the Contract. All other provisions contained in the original Contract, as amended, shall remain unchanged.

## **SIGNATURES**

### **DEPARTMENT**

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Steve Gibson, Administrator  
Youth Services Division

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Date

### **CONTRACTOR**

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Vaughn Kauffman, Director  
Prickly Pear Cooperative

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Date

Reviewed for Legal Content by:

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Legal Counsel  
Department of Corrections

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Date

## CONTRACT AMENDMENT CONTRACT #CCD-02-032-5-RIV

THIS CONTRACT AMENDMENT (**Amendment #4**) is made and entered into by and between the Montana Department of Corrections (DEPARTMENT) 1539 11th Ave., Helena, Montana 59620-1301 and **Prickly Pear Cooperative** (CONTRACTOR) PO Box 1280, Main Street School, East Helena, Montana 59635 and is effective upon receipt of all signatures.

WHEREAS, the parties have entered a Contract with an original effective date of July 1, 2001 and Section 21 provides that the parties may modify their agreement in writing; and

WHEREAS, the Contract expires on June 30, 2005 and Section 5 provides that the parties may extend the expiration date of the Contract.

NOW THEREFORE, the parties agree to amend the Contract as follows (**new language underlined, old language interlined**):

### 3. COMPENSATION/BILLING

DEPARTMENT shall compensate CONTRACTOR for successful delivery of the services provided pursuant to Section 2 in the following manner:

- H. DEPARTMENT will pay CONTRACTOR ~~\$45.76~~ \$47.59 per hour for School Psychology services ~~\$39.61~~ \$41.19 per hour for Special Education Teacher services. In addition, DEPARTMENT will pay CONTRACTOR ~~\$39.61~~ \$41.19 per visit to Riverside for travel time incurred by the Special Education Teacher, or school psychologist. All services shall be provided and scheduled "as requested" by DEPARTMENT.

### 5. TIME OF PERFORMANCE

This Contract shall take effect on July 1, 2001 and shall terminate on June 30, ~~2005~~ 2006, unless terminated earlier in accordance with the terms of this Contract. This Contract may, upon mutual agreement and according to the terms of the existing Contract, be renewed at one (1) year intervals for a period not to exceed a total of ~~two (2)~~ one (1) additional years

Upon expiration of this Contract, and in the absence of new written agreement, the terms listed herein shall continue to govern the agreement between the parties until such time as a new Contract is signed.

This constitutes the Amendment to the Contract. All other provisions contained in the original Contract, as amended, shall remain unchanged.

**DEPARTMENT**

\_\_\_\_\_  
Steve Gibson, Administrator  
Youth Services Division

\_\_\_\_\_  
Date

**CONTRACTOR**

\_\_\_\_\_  
Vaughn Kauffman, Director  
Prickly Pear Cooperative

\_\_\_\_\_  
Date

Reviewed for Legal Content by:

\_\_\_\_\_  
Legal Counsel  
Department of Corrections

\_\_\_\_\_  
Date